

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

| | | |
|----------------------------|---|-----------------------|
| RENEE M. BUTZ, |) | |
| |) | |
| Plaintiff, |) | |
| v. |) | C.A. No. 05-495 (JJF) |
| |) | |
| LAWNS UNLIMITED LTD., AND, |) | |
| EDWARD FLEMING |) | |
| Defendant. |) | |
| |) | |

MOTION TO EXTEND DISCOVERY

Defendants, by and through their undersigned counsel, hereby move to extend the discovery period, and in support thereof, state the following:

1. By way of a brief procedural history of this case, Plaintiff Renee Butz filed a *pro se* Complaint on July 15, 2005. (D.I. 2). Service was not made upon Defendants until May 12, 2006 (D.I. 9-10). The parties agreed to the Court's Proposed Scheduling Order, which was entered as an Order on August 15, 2006. (D.I. 20). At that time, Plaintiff amended her Complaint, (D.I. 19), to which Defendants have not yet filed an Answer.

2. On November 10, 2006, the law firm of Young Conaway Stargatt & Taylor, LLP was retained to take over representation of Defendants Lawns Unlimited, Ltd. and Edward Fleming. Until that time, Eric C. Howard, Esquire, of Wilson, Halbrook & Bayard in Georgetown, Delaware had been the named counsel. The undersigned entered her appearance through a jointly filed Notice of Substitution of Counsel. (D.I. 34). Plaintiff continues to represent herself *pro se*.¹

3. The Scheduling Order set discovery to end on October 17, 2006 and dispositive motions due by November 17, 2006. (D.I. 20).

¹ On November 17, 2006, the Court denied Plaintiff's then-pending Motion for Appointment of Counsel. (D.I. 35).

4. No discovery has yet taken place. Defendants did not submit their Rule 26 Initial Disclosures, propound any formal discovery requests to Plaintiff, or notice any depositions before the close of discovery in October.

5. Plaintiff noticed the deposition of Defendant Fleming on September 27, 2006 to be held on November 13, 2006, nearly a month past the discovery cut-off date. The deposition did not take place.

6. Because of the failure of the parties to take discovery, neither is prepared to go forward towards trial.

7. Defendants request the Court revise the current Scheduling Order to restart the discovery period, thereby permitting the parties to prepare for trial.

8. The undersigned spoke with Plaintiff on November 12, 2006, at which time Plaintiff concurred that it would be most preferable to reopen discovery and to reschedule the pretrial conference. The undersigned has been unable to confirm that Plaintiff's position remains unchanged but has not received any information to the contrary.

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Margaret M. DiBianca

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DATED: December 7, 2006

CERTIFICATE OF SERVICE

I, Margaret M. DiBianca, Esquire, hereby certify that on December 7, 2006, I electronically filed a true and correct copy of **Defendants' Motion to Extend Discovery, Statement of Compliance and Proposed Order** with the Clerk of the Court using CM/ECF. I further certify that on December 7, 2006, I caused to be served two (2) true and correct copies of the foregoing **Defendants' Motion to Extend Discovery, Statement of Compliance and Proposed Order** on the following non-registered participant via postage prepaid, First Class Certified U.S. Mail/Return Receipt Requested:

Renee M. Butz, *pro se*
58 Hickory Drive
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